

SUPERIOR COURT OF WASHINGTON  
COUNTY OF KING

VIX TECHNOLOGY USA, Inc.,

Plaintiff,

v.

CENTRAL PUGET SOUND REGIONAL  
TRANSIT AUTHORITY (dba SOUND  
TRANSIT) and KEVIN WALLACE,

Defendants.

No. 18-2-19467-9

DEFENDANT AND CROSS-  
CLAIMANT KEVIN WALLACE'S  
FIRST INTERROGATORIES AND  
REQUESTS FOR PRODUCTION TO  
SOUND TRANSIT

TO: Defendant Central Puget Sound Regional Transit Authority (Sound Transit)

AND TO: Its attorney, James Niemer

In accordance with Rules 26, 33, and 34 of the Civil Rules for Superior Court of the State of Washington, defendant and cross-claimant Kevin Wallace propounds the following interrogatories and requests for production of documents to the defendant Sound Transit to be answered separately and fully, under oath, within thirty (30) days of the date of service hereof. These interrogatories are intended to draw upon the combined knowledge of all offices of the defendant and its employees, officers, agents and attorneys. These interrogatories are continuing in nature, and you are requested to amend or supplement each answer as further information becomes known, in accordance with CR 26(e).

1 Definitions:

2 A. "Records" means writings of every kind and character fixed in any tangible medium  
3 whatsoever, regardless of origin or location, including but not limited to emails, papers, computer  
4 data, metadata, photos and audio or video recordings.

5 B. "Identify," when used with reference to an individual person, means to state his or her full  
6 name, title, and present business address and telephone number. "Identify," when used with  
7 reference to a record or document, means to state specifically the type of record involved (e.g.,  
8 letter, email, interoffice memorandum, etc.), together with information sufficient to enable the  
9 plaintiff to identify the record, such as its date, the name of the addressee, the name of any signer, the  
10 heading or title of the record, and its approximate number of pages.

11 C. "You," "Your," and "Sound Transit" means the Central Puget Sound Regional Transit  
12 Authority, including all of its offices, employees, agents, and independent contractors.

13 D. Privilege Log. If you claim that an answer to any interrogatory or a requested record or  
14 portion thereof is subject to any privilege or other protection from discovery, you are to identify the  
15 subject matter of the privileged information and state the ground or basis for each such claim of  
16 privilege or protection. So as to aid the Court and the parties to determine the validity of the claim  
17 or privilege or other protection or objection, please provide the following information with respect  
18 to each document 1) author; 2) recipient(s), 3) date, 4) nature and substance of the document  
19 sufficient to assess the privilege claim, to the extent that it can be stated without divulging privileged  
20 information, 5) present custodian(s) of the document and any copies of it, and 6) number of pages  
21 (or other measurement of length for other media). All portions of discovery not regarded as calling  
22 for a protected response are to be answered fully.

23 E. Destroyed Document Log. If any record requested was but is no longer in your possession,  
24 custody or control, or is no longer in existence, please state whether it is missing, lost, destroyed, or

has been given to someone else. In each instance, explain the circumstances surrounding such disposition and identify the person(s) directing or authorizing such action, and the date(s) thereof. Identify each record and describe the subject matter, present and previous locations(s) and custodian(s), and if a copy still exists.

If you object to any of these interrogatories or requests, please state the reason for each objection or nonproduction and identify each record withheld from production by its author, date, recipient(s), and the general subject matter. If you object to any part of an interrogatory, please answer all parts of the interrogatory to which you do not object.

Please send copies of the requested documents to attorney Katherine A. George at Johnston George LLP, either by email to [kathy@johnstongeorge.com](mailto:kathy@johnstongeorge.com), or by mail to the firm's new address (effective October 22, 2018) at 2101 4<sup>th</sup> Ave., Suite 860, Seattle, WA, 98121.

### **INTERROGATORIES & REQUESTS FOR PRODUCTION**

**INTERROGATORY NO. 1:** Please identify all persons who have knowledge of any discoverable matter in this lawsuit, including:

- a) persons in possession of any records at issue in this action;
- b) persons consulted or involved in any way in responding to the January 13, 2018 and May 5, 2018 requests at issue in this action, including - but not limited to - those involved in searching for responsive records and those involved in determining which records to withhold or produce;
- c) persons involved in the decision to stop giving SOP-SEC 10-07 to fare enforcement officers;
- d) persons who planned, wrote, reviewed, edited, approved, received or otherwise communicated about the May 11, 2018 email sent from project coordinator Leigh Tennison to Kevin Wallace, or any draft of that email;
- e) persons who planned, wrote, reviewed, edited, approved, received or otherwise communicated about the May 14, 2018 email sent from records officer Q'Deene Nagasawa to Kevin Wallace, or any draft of that email;
- f) persons who communicated with the plaintiff Vix Technology USA in relation to the May 5, 2018 records request and/or this action; and
- g) any other person(s) with knowledge relevant to the claims and defenses in this case.

**ANSWER:**

1  
2  
3  
4  
5  
6  
7  
8 INTERROGATORY NO. 2: For each person listed in your answer to Interrogatory No. 1,  
9 please briefly describe what knowledge the person possesses relevant to the interrogatory.

10 ANSWER:  
11  
12  
13  
14  
15  
16

17  
18 INTERROGATORY NO. 3: Please fully describe the precise date and exact nature of *each*  
19 *action* taken in response to the January 13, 2018 records request from Kevin Wallace, including  
20 without limitation each communication and each activity related to estimating response times,  
21 searching for responsive records, collecting records, reviewing records, withholding records, and  
22 producing records.

23 ANSWER:  
24

1  
2  
3  
4  
5        REQUEST FOR PRODUCTION NO. 1: Please produce all memos, emails, notes and other  
6 records related in any way to the records request dated January 13, 2018, including without  
7 limitation: correspondence with Kevin Wallace; records produced to Mr. Wallace in response to the  
8 request; and any internal or external correspondence regarding identifying and searching for  
9 responsive records, contacting third parties, estimating response times, reviewing records for exempt  
10 content, deciding to withhold SOP-SEC 10-07, or other documents related to the request.

11  
12  
13        RESPONSE:

14        INTERROGATORY NO. 4: Please fully describe the precise date and exact nature of *each*  
15 *action* taken in response to the May 5, 2018 records request from Kevin Wallace, including without  
16 limitation each communication and each activity related to estimating response times, searching for  
17 responsive records, collecting records, reviewing or analyzing records, reviewing exemptions,  
18 notifying third parties, developing plans or positions, withholding records, and communicating  
19 internally and externally (verbally or in writing) in relation to the request or this action.

20  
21        ANSWER:

1        REQUEST FOR PRODUCTION NO. 2: Please produce all memos, emails, notes and other  
2 records related in any way to the records request dated May 5, 2018, including without limitation:  
3 correspondence with Kevin Wallace; correspondence with Mark Rosencrantz or other  
4 representatives of Vix Technology; internal correspondence related to the May 5 request or Vix  
5 Technology's opposition to the request; notes or summaries of meetings or phone calls; or other  
6 documents related to the request or to this action.

7                RESPONSE:

8  
9  
10        INTERROGATORY NO. 5: Please fully describe the purpose, timing and precise nature of  
11 any phone calls or in-person conversations between you and Mark Rosencrantz (or other  
12 representatives of Vix Technology) related to the records requests at issue in this case.

13                ANSWER:

14  
15  
16  
17  
18  
19  
20        INTERROGATORY NO. 6: Please fully explain your statement to Kevin Wallace that SOP-  
21 SEC 10-07 is "no longer included" in materials provided to fare enforcement monitors, including  
22 identifying the precise date when you stopped including it, the specific reasons for such stoppage,  
23 and how the stoppage relates to replacement of manual ticketing with hand-held fare enforcement  
24 devices.

1           ANSWER:

2

3

4

5

6

7

8           REQUEST FOR PRODUCTION NO. 3: Please produce all records related to your answer  
9 to Interrogatory No. 6, including without limitation a copy of SOP-SEC 10-07 itself, and any emails,  
10 memos, meeting notes or other documents indicating, referring to or otherwise discussing the timing  
of, or reasons for, no longer including the procedure in fare enforcement materials.

11           RESPONSE:

12

13

14

15

16           REQUEST FOR PRODUCTION NO. 4: Please produce all records of internal  
17 communications about the purpose, function and/or capabilities of the Officer Android application  
and of the Orca Inspection application.

18           RESPONSE:

19

20

21

22

23           INTERROGATORY NO. 7: Please describe the full set of information readable from an  
24 Orca card by the Officer Android application.

1                    ANSWER:

2

3

4

5

6

7

8

9                    INTERROGATORY NO. 8: Please describe the full set of information readable from an  
10 Orca card by the Orca Inspection application.

11                    ANSWER:

12

13

14

15

16                    REQUEST FOR PRODUCTION NO. 5: Please produce all contracts or agreements with  
17 Vix Technology (formerly named ERG Transit Systems) related to the leasing, use or distribution of  
18 the Officer Android application and the Orca Inspection application.

19                    RESPONSE:

20

21

22

23

24



1        INTERROGATORY NO. 9: Please describe the timing, nature and outcome of any efforts to  
2 redact, or to investigate the possibility of redacting, the Officer Android application for any purpose,  
3 and identify persons involved in any such efforts.

4        ANSWER:  
5  
6  
7  
8  
9  
10

11       INTERROGATORY NO. 10: Please describe the timing, nature and outcome of any efforts  
12 to redact, or to investigate the possibility of redacting, the Orca Inspection application for any  
13 purpose, and identify persons involved in any such efforts.

14       ANSWER:  
15  
16  
17  
18  
19

20       REQUEST FOR PRODUCTION NO. 6: Please produce all of your formal and informal  
21 policies, guidelines, directives, instructions or similar materials considered or applied in handling the  
22 May 5, 2018 records request. This request does not include Chap. 42.56 RCW or other statutes.

23       RESPONSE:  
24

1  
2  
3 INTERROGATORY NO. 11: If you took steps to determine if disclosure of Officer Android  
4 would produce private gain and/or public loss, please identify the date and nature of each step, the  
person(s) involved, the details of any particular public loss considered, and the details of any  
particular threat of private gain.

5 ANSWER:  
6  
7  
8  
9  
10  
11

12 INTERROGATORY NO. 12: If you took steps to determine if disclosure of the Orca  
13 Inspection application would produce private gain and/or public loss, please identify the date and  
nature of each step, the person(s) involved, the details of any particular public loss considered, and  
the details of any particular threat of private gain.  
14

15 ANSWER:  
16  
17  
18  
19  
20  
21  
22

23 INTERROGATORY NO. 13: For each third-party injunction suit under RCW 42.56.540 in  
24 which you were named as a defendant in the last 10 years, please identify the plaintiff, court, case  
number and your role, including whether you actively litigated in favor of disclosure.

1           ANSWER:

2  
3  
4  
5  
6  
7  
8  
9           REQUEST FOR PRODUCTION NO. 7: For each case listed in response to Interrogatory  
10 No. 13, please produce your correspondence with the plaintiff in that case prior to the lawsuit.

11           RESPONSE:

12  
13  
14  
15  
16           INTERROGATORY NO. 14: Please fully explain your June 11, 2018 statement to Kevin  
17 Wallace that you needed an additional 3 to 4 weeks to proceed with the third-party notice process,  
18 including identifying what the time estimate was based on, what information had been given to or  
19 received from Vix Technology as of that date, and precisely what if any circumstances were expected  
20 to change in the 3 to 4 weeks following June 11.

21           ANSWER:

1  
2  
3  
4 INTERROGATORY NO. 15: Please fully explain why you did not disclose the Officer  
5 Android and Orca Inspection applications to Kevin Wallace prior to the preliminary injunction in this  
6 case.

7  
8  
9  
10  
11  
12  
13  
14 ANSWER:

15  
16  
17  
18  
19  
20  
21  
22  
23  
24 DATED this 15th day of October, 2018.

\_\_\_\_\_  
Katherine A. George, WSBA #36288  
JOHNSTON GEORGE LLP  
1126 34th Avenue, Suite 307<sup>1</sup>  
Seattle, Wash., 98122  
kathy@johnstongeorge.com  
Phone: 206 832-1820  
Attorney for Kevin Wallace

**Attorney's CR 26 Certification:** The undersigned attorney certifies that the responses herein

1 Effective Oct. 22, 2018, the firm's address will change to: 2101 4<sup>th</sup> Avenue, Suite 860, Seattle, WA 98121.

1 comply with CR 26(g).

2 \_\_\_\_\_

3 Dated: \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**CERTIFICATE OF SERVICE**

On October 15, 2018, I sent a true and correct copy of the foregoing document by e-mail and U.S. mail to the following:

James Niemer  
Sound Transit  
401 S. Jackson St.  
Seattle, WA 98104-2826  
[james.niemer@soundtransit.org](mailto:james.niemer@soundtransit.org)

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 15th day of October, 2018.

\_\_\_\_\_  
KATHERINE A. GEORGE